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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,387	05/21/2001	Andrew D. Padawer	50037.19US01/MS#164070.1	8873

27488 7590 10/31/2002

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EXAMINER

CHUNG TRANS, XUONG MY

ART UNIT PAPER NUMBER

2181

DATE MAILED: 10/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/862387

Applicant(s)

Padawer et al.

Examiner

X. CHUNG-TRANS

Group Art Unit

2181

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period of Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 8/14/02.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-22 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-22 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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1. This is responsive to the amendment filed on 8/14/02.

Claims 1-22 are pending in this application.

2. The rejection of claims 1-6 and 10-22 under 35 U.S.C. 103 as being unpatentable over Kikinis et al., as stated in the Office Action dated 9 May 2002, is incorporated by reference.

3. The rejection of claims 7-9 under 35 U.S.C. 103(a) as being unpatentable over Kikinis et al. as applied to claim 1 above, and further in view of Vossler and/or Vong et al., as stated in the Office Action dated 9 May 2002, is incorporated by reference.

4. Applicant's arguments filed August 14, 2002 have been fully considered but they are not persuasive.

Regarding claims 1 and 6, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a user personally enters time data, future appointments, from an appointment calendar, etc.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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Regarding claim 2, applicant argued that Kikinis fails to teach or suggest a switch to bring the mobile device out of a low power consumption state. The Examiner respectfully disagrees. Applicant's argument is not claimed.

Regarding claim 3, applicant argued that Kikinis fails to teach or suggest a user interface configured to receive the second set of data. The examiner respectfully disagrees. Kikinis discloses a user interface to receive the second set of data col. 4, line 63 to col. 5, line 10.

Regarding claims 4-5, applicant argued that Kikinis fails to teach or suggest an abort signal to be sent to the application prior to putting the mobile device into the low power consumption state. The examiner disagrees. Kikinis discloses such limitation (col.1, lines 47-56 and col. 3., lines 45-49).

Regarding claims 10-~~12~~, claims 10-~~12~~ are not allowable for at least the reasons given above for system claims 1-6.

Regarding claims 7-9, applicant argues the patentability of the claims by individually addressing the references used to reject the claims. It is noted that the claims are rejected as being obvious using a combination of references. Applicant can not show non-obviousness by attacking the references individually where, as here the rejection are based on a combination of references, In re Keller, 208 USPQ 871 (CCPA 1981). Thus the combination of Kikinis and Vossler discloses the claimed invention.

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Regarding the declaration, it is submitted that applicant attempting to exclude Vong reference by just the exclusion under 35 U.S.C. 103 © is not sufficient to overcome the prior art rejection.

5. The Declaration filed on 8/14/02 under 37 CFR 1.131 has been considered but is ineffective to overcome the reference.

The declaration does not establish diligence from a date prior to the date of reduction to practice of the reference to either a constructive reduction to practice or an actual reduction to practice. See MPEP 715.

The declaration does not establish a conception of the invention prior to the effective date of the reference. See MPEP 715.

The declaration does not establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the reference. See MPEP 715.

The declaration does not establish applicant's alleged actual reduction to practice of the invention prior to the effective date of the reference. See MPEP 715.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xuong M. Chung-Trans whose telephone number is (703) 305-9772. The examiner can normally be reached on Monday - Friday from 9:30AM to 2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Wong, can be reached on (703) 305-3477. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



X.M. Chung-Trans


GOPAL C. RAY
PRIMARY EXAMINER
GROUP 2800